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NOMINATION—MARINE MAMMAL COMMISSION

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

NOMINATION OF DR. WILLIAM EVANS, TO BE CHAIRMAN, MARINE MAMMAL COMMISSION

MARCH 21, 1984

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NOMINATION—MARINE MAMMAL COMMISSION

WEDNESDAY, MARCH 21, 1984

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION,
Washington, D.C.

The committee met, pursuant to notice, at 9 a.m., in room SR-253, Russell Senate Office Building, Hon. Bob Packwood (chairman of the committee) presiding.

Staff members assigned to this hearing: Dennis Phelan and Marguerite Ayers professional staff members; and James Drewry, minority staff counsel.

OPENING STATEMENT BY THE CHAIRMAN

The CHAIRMAN. The committee will come to order.

Today we are considering the nomination of Dr. William Evans to be Chairman of the Marine Mammal Commission. As most of those in this room are probably aware, I have had a long-standing interest in the management of marine mammals, not only in this country, but worldwide. Proper enforcement of the Marine Mammal Protection Act is something I have continually worked for during the 12 years this act has been in place.

In addition to our domestic efforts on behalf of these magnificent creatures, I have spent a great deal of time and effort in making sure that other nations pursue fair and humane policies toward marine mammals, and this goes beyond just the great whale and the work of the International Whaling Commission. All species of marine mammals deserve our protection throughout the range of their migration no matter what international boundaries they cross.

As those in the conservation community know, this is not an easy goal to reach. Not everyone shares our appreciation of the unique characteristics of these fascinating animals. Nevertheless, I wanted to take a moment to congratulate the thousands of conservationists in this country and abroad who have done so much to expand worldwide appreciation of marine mammals. Great progress has been made on this front, and credit largely rests with my friends in the conservation community. You have my thanks.

But before I forget why we are here, let me introduce Dr. William Evans, the President's nominee to be Chairman of the Marine Mammal Commission. I want to welcome Dr. Evans, and ask that he present whatever statement he may have. After that, I will have a number of questions to ask him. I believe that Congressman Lowery may have a few comments to make before we start.

STATEMENT OF HON. BILL LOWERY, U.S. REPRESENTATIVE FROM CALIFORNIA

Mr. LOWERY. Thank you, Mr. Chairman. I am here to introduce and recommend to the committee a constituent of mine, Dr. William Evans for confirmation as the Chairman of the Marine Mammal Commission.

Dr. Evans is widely recognized as one of the world's foremost marine mammologists and bioacousticians. His long time interest and participation in marine mammal programs uniquely qualifies him to serve the nation in this capacity. As you know, the responsibility of the Commission since its inception has been to enhance the conservation and protection of marine mammals and to ensure compliance with the Marine Mammal Protection Act.

Established under title II of the act, the Marine Mammal Commission is an independent advisory entity of the executive branch. The Commission develops, reviews, and makes recommendations on actions and policies of all Federal agencies with respect to marine mammal protection and conservation. These actions are undertaken pursuant to existing laws and international treaties. Another important responsibility of the Commission is the research programs and reviews it conducts to ensure the health and stability of the marine mammals within their ecosystems. In furthering the objectives and effectiveness of the act, the Commission makes recommendations to the Congress.

Dr. Evans is currently executive director of the Hubbs-Sea World Research Institute in San Diego, Calif. The institute is a nonprofit, public benefit corporation, and its major goals are conducting biological, environmental, and general scientific research in the world's marine environment.

Before joining the institute, Dr. Evans was head of the Bioanalysis Group, Underseas Science Department at the Naval Ocean Systems Center at Point Magu, Calif. As a scientist for the U.S. Navy, his research in the sonar capability of marine mammals pioneered the development of radiotelemetry, monitoring the movement of cetaceans.

Dr. Evans assisted in the development of aerial and acoustical surveying techniques, and has contributed to the knowledge about cetacean communication, including courses in marine ecology, animal behavior, and biology of marine mammals.

In addition to his extensive teaching and lecturing responsibilities, he has published more than 60 technical papers and coauthored several books. Dr. Evans is a member of both the national and international advisory groups dealing with educational and environmental protection.

As a member of the Planning and Steering Committee of United States-U.S.S.R. Environmental Protection Agreement, Area V, Dr. Evans has been involved in an exchange program with Russian scientists in the evaluation and study of marine mammal population, mainly cetaceans. In 1971, he was listed in American Men of Science.

Dr. Evans graduated from Ohio State with a master's in 1954, and the University of California at Los Angeles with a Ph.D. in 1975. He is married, has two children, and has lived in north San

Diego County since 1968. He has been active in 4-H, Future Farmers of America programs, and is adjunct professor of biology at San Diego State University.

Mr. Chairman, it is indeed a privilege and a pleasure for me to present a very noted constituent to the committee.

The Chairman. Congressman, thank you.

Dr. Evans.

STATEMENT OF WILLIAM E. EVANS

Dr. EVANS. Mr. Chairman, members of the Senate Committee on Commerce, Science and Transportation:

My name is William E. Evans, and I am the executive director and president of the Hubbs-Sea World Institute, formerly the Mission Bay Research Foundation, which is a nonprofit, public benefit corporation.

I am appearing before you today as the President's nominee for chairmanship of the Marine Mammal Commission. I view this nomination as an honor and accept it as recognition of my 25 years of dedication to the study and conservation of marine mammals. I also recognize the awesome responsibility of the position.

With the passing of the Marine Mammal Protection Act of 1973 and the Endangered Species Act of 1973, the United States established a new conservation ethic, hopefully for the rest of the world to emulate. The Marine Mammal Commission has played and continues to play a key role in the shepherding of this conservation ethic.

Under title II of the act, the Marine Mammal Commission is charged with developing, reviewing, and making recommendations on actions and policies of Federal agencies with respect to marine mammal protection, conservation, and research.

For this reason, the Commission must maintain a high level of credibility with all sectors interested in marine mammals. Conservation and protection organizations, Federal agencies, the academic and private research communities, fishing interests, the live animal display interests. Functioning efficiently in all of these areas places a heavy burden on the Commission, a burden which has been carried well during the past 11 years.

During the past 25 years, I have actively conducted field and laboratory research, science administration tasks, and exercised management and conservation efforts in all of these sectors.

As an example, in 1967, I, along with several of my colleages, recognized the need for public support and participated in the organization of what is now called the American Cetacean Society, an effort that I am very proud of. In 1970, we were actively involved in reducing porpoise mortality associated with fishing. I sincerely feel that this broad base of experience can significantly aid the Commission in the pursuit of its mission.

Unfortunately, the same broad experience that qualifies me for the task at hand also raises the question of conflicts of interest, especially as they relate to my institution, Hubbs-Sea World Research Institute.

For this reason, I have recused myself in terms general and specific from all matters in which a conflict of interest may appear to

exist. My letters to this effect are on file with Mr. John Twiss, Executive Director of the Marine Mammal Commission, and with your committee.

Although such a broad recusal may appear to limit my role significantly, I wish to assure you that the major part of my work as Chairman remains unaffected. For example, I intend to fully involve myself in the workings of the International Whaling Commission, the North Pacific Fur Seal Commission, the U.S.-U.S.S.R. agreement, the cooperative research undertakings between the United States and Mexico, which is extremely important now, the Dall's porpoise situation in the North Pacific, and a host of other very important matters.

In closing, I am willing to discuss these and other matters with you in detail. Thank you for allowing me this opportunity to appear before you today.

The CHAIRMAN. Doctor, do you have with you the letter of March 19 to Mr. Twiss?

Dr. EVANS. Yes, sir.

The CHAIRMAN. Would you mind reading that in full? I know that it is in the record, but I would like those in the audience to hear it. It is a very, very extensive letter of recusal and I think that it would be worthwhile for everyone to hear it in detail.

Dr. EVANS. Yes, sir:

JANUARY 19, 1984.

Mr. JOHN TWISS,
Marine Mammal Commission,
625 I Street, Washington, D.C.

DEAR MR. TWISS: Because my service as Chairman of the Marine Mammal Commission will be on a part-time basis, it is my intention to continue, after my confirmation, to serve in my present capacity as Executive Director of the Hubbs-Sea World Research Institute.

Hubbs-Sea World Research Institute is a nonprofit, public benefit corporation, which was established in 1963, then as the Mission Bay Research Foundation, to conduct studies on marine mammals and on the effect of man's activities upon them.

As Executive Director, I also serve as President and Chief Executive Officer of the corporation. Because of my continuing relationship with Hubbs-Sea World Research Institute as an officer and employee, I intend to recuse myself from acting, advising, or recommending with respect to any particular matter as defined in the Federal conflict of interest laws and applicable regulations where the outcome may have a direct and predictable effect on Hubbs-Sea World Research Institute, even though all other similarly situated marine mammal research organizations would be affected in a like manner.

Although Hubbs-Sea World Research Institute is frequently identified with Sea World, Inc., a for-profit organization engaged in inter alia display of captive marine mammal, Hubbs-Sea World Research Institute is, in fact, a totally independent and nonprofit——

The CHAIRMAN. Doctor, let me interrupt you. The letter that I wanted you to read is the one of yesterday or the day before. It is dated March 19.

Dr. EVANS. March 19.

The CHAIRMAN. I apologize. I thought that that was the one that you were starting to read, and I thought, this is not the same letter.

Dr. EVANS. This letter is March 19, 1984, 2 months later:

DEAR MR. TWISS: In connection with my nomination to the position of Chairman of the Marine Mammal Commission, I have agreed via my letter of 19 January 1984

to recuse myself from acting, advising, recommending or participating with respect to any particular matter where the outcome may have a direct and predictable effect on Hubbs-Sea World Research Institute or Sea World, Inc., even though all other entities similarly situated could be affected in a like manner.

To effectuate this commitment, I have further agreed in particular as follows:

(1) To recuse myself from participation in matters involving standards, guidelines, regulations governing the maintenance of marine mammals in captivity and related matters;

(2) To recuse myself from matters involving Outer Continental Shelf oil and gas exploration, development, and related research matters;

(3) To recuse myself from participation in decisions on applications to the Commission for research funding submitted by (a) Hubbs-Sea World Research Institute or Sea World, Inc.; (b) any individual or entity wishing to do research in subject matter areas which are of particular interest to Hubbs-Sea World Research Institute or Sea World, including—these are specific research areas—U.S. tuna-porpoise, bowhead whale, antarctic living resources, sea otters, humped-back whales in Glacier Bay, killer whales, marine mammal fisheries interactions along the California coast, maintenance and propagation of marine mammals in captivity, and Beluga whales, contributions to or sources of funding for Hubbs-Sea World Research Institute, or Sea World, Inc.

(4) To recuse myself from participation in reviews of the research programs and plans of other agencies and those of the Commission in subject matter areas which are of particular interest to Hubbs-Sea World Research Institute, or Sea World Research, Inc., including U.S. tuna-porpoise, bowhead whale, antartic living resources, sea otters, humped-back whales in Glacier Bay, killer whales, marine mammal fisheries interactions along the California coast, maintenance and propagation of marine mammals in captivity, and Beluga whales;

(5) to recuse myself from Commission deliberations on applications for permits to take marine mammals submitted by (a) Hubbs-Sea World Research Institute or Sea World, Inc.; (b) any individual or entity seeking to do research in subject matter areas which are of particular interest to Hubbs-Sea World Research Institute or Sea World, Inc., including U.S. tuna-porpoise, bowhead whale, antartic living resources, sea otters, humped-back whales in Glacier Bay, killer whales, marine mammal fisheries interactions along the California coast, maintenance and propagation of marine mammals in captivity, and Beluga whales; and contributors to or sources of funding for Hubbs-Sea World Research Institute or Sea World, Inc.

To provide the Commission and the Ethics in Government Office additional background information which I consider essential, I enclose a list of all the major sources of contributors to Hubbs-Sea World Research Institute or Sea World, Inc. over the last 3 years, as well as a list of grants and contracts which have been concluded in the last 3 years, those that are now on-going and those that are under consideration for funding. With this list, I have shown the sources of support as well.[1]

In my letter to you of January 19, 1984, I requested that you establish suitable procedures so that no matter would come to my attention as to which recusal is required. That request should be read to apply to the specific commitment set forth above.

After suitable procedures have been established, I am required to provide written notice thereof to the Office of Government Ethics pursuant to and within the time limit imposed by section 211 of the Ethics in Government Act, as amended.

Sincerely,

WILLIAM E. EVANS.

The CHAIRMAN. Doctor, thank you.

Both the January 19 and March 19 letters will be in the record and available for any member of the public who wants to see them.

Doctor, what is the relationship between Hubbs-Sea World Research Institute and Sea World, Inc., both financial and logistical?

Dr. EVANS. In 1963, a group of gentlemen in San Diego formed a nonprofit foundation to help many of the researchers at Scripps Institution of Oceanography, among them was Dr. Carl Hubbs. This organization was the Mission Bay Research Foundation. Two of

[1] The lists referred to have been retained in the committee files.

those gentlemen were also involved in the original organization of what was later to become Sea World, Inc.

In the process of setting up this corporation, the founders felt that there was an environmental obligation. They were very conservation minded people in the fishing community, and they were concerned that oceanariums, and aquariums, which utilize and display animals from the sea, needed to have as much research as they possibly could for this. So they wanted to come up with some mechanism whereby they could fund and provide scholarships and provide funding to do research on the seas.

They, then, started to work very hard. Initially there was little or no funding from Sea World, Inc. As Sea World, Inc., grew, it then became involved initially as one of the endowers of the institute. Endowment to the institute took the place of providing laboratory space in an area within the city park.

Sea World in San Diego is located in Mission Bay Park, which is actually city property, and it is on lease. A section of that area was set aside by Sea World, Inc., for use by San Diego State University, the Center for Marine Studies, and Hubbs-Sea World Research Institute. At the present time, the institute and San Diego State University are very much involved in that research effort.

In addition to that, Sea World has provided funding and support. At the present time, the institute has a board consisting of 10 members. Seven are from the community, three of them are associated Sea World, Inc. The chairman of our board of trustees, Frank Powell, was elected. He also happens to be associated as a corporate officer with Sea World Enterprises, which is a subsidiary of Harcourt, Brace, Jovanovich.

The funding that we get for the institute varies from year to year. It is partially logistic in that Sea World has services that they can provide in terms of repairing some of our equipment.

We move a lot of sea water through our facility in order to maintain fish for our miraculture project. They have many people expert in this area. Most of the veterinary care that we need for the types of research projects that we do comes from Sea World.

In addition to that, they provide varying amounts of cash as a donation from year to year.

The CHAIRMAN. What is your relationship to both Hubbs-Sea World Research Institute and to Sea World, Inc. Your principal connection is with Hubbs-Sea World Research Institute rather than Sea World, Inc.?

Dr. EVANS. I am the chief, executive director, and I also happen to be the president and executive officer of Hubbs-Sea World Research Institute Foundation.

I have no formal relationship with Sea World, Inc., whatsoever. My relationship with Sea World, Inc., is that I have to deal with those people from Sea World, Inc., who happen to be on my board of trustees.

The CHAIRMAN. You are well aware of Sea World's proposal to capture killer whales, controversial as it is. What role did you and Hubbs-Sea World Research Institute play in developing this proposal?

Dr. EVANS. We were asked by Sea World very early on, and by several other organizations, to do some research to determine kinds

of research projects that should be undertaken on killer whales for a variety of reasons. We started a number of projects as long ago as 3 to 4 years in looking at this.

When they made the decision to go forth with their permit request, they came and asked for advice, not only from us, but from scientists from the University of Alaska, and from several other organizations, such as Scripps Institution of Oceanography.

In 1981 or 1982, I, along with members of my staff, participated as experts on an International Whaling Commission Special Workshop on Killer Whales, especially trying to determine vital rates. One of the things we were startled by when we brought in experts from all over the world, was the lack of information that we had about certain areas of the world.

From this, we brought all of the information that was currently available together, and from that produced a number of scientific papers which have now been published by the International Whaling Commission. The institute, I think, contributed five or six papers. The work that we did was funded by the National Science Foundation based on some work that we did in the Antarctic.

We then went to Sea World and recommended to them, along with several other scientific organizations, that if they were going to collect animals for live display and for propagation projects, they should seriously consider addressing some of the research questions which were raised, and the recommendations of the International Whaling Commission report.

We were then asked later by Sea World, after they had submitted their report, to comment on it, which we have. I provided two or three experts from my staff to act as advisers to them on science questions, especially as it has to do with the aerial survey and boat survey, which is an area that we have a great deal of expertise in. Congressman Lowery mentioned that we have done a lot in aerial surveys. In fact, we were involved in some of the very early aerial surveys.

We have worked with Sea World in helping them to establish what we feel will be a meaningful survey program.

The CHAIRMAN. Is Hubbs and, to the best of your knowledge, Sea World members of the American Association of Zoological Parks and Aquaria?

Dr. EVANS. Sea World is a corporate member of AAZPA, as I believe are almost all of the zoological parks, oceanariums, and aquariums. The institute is not. I, as director of the institute, am a professional fellow to the American Association of Zoological Parks and Aquaria.

The CHAIRMAN. Do you know when Sea World joined?

Dr. EVANS. No, sir, I do not.

The CHAIRMAN. Let's switch over to the North Pacific Fur Seal Treaty.

Dr. EVANS. Yes, sir.

The CHAIRMAN. You know that it is going to be renegotiated soon. What are your thoughts about the position that the United States should take with regard to the continuing seal harvest in the Pribilof Islands?

Dr. EVANS. I have not had the opportunity to study it in great detail. I have looked at the 1983 annual report of the Marine

Mammal Commission. I have not looked at their most recent recommendation.

I feel, as I think was mentioned in their report and in discussions I have had with other scientists, that we need to approach this area in a cautious fashion. There is a need for a great deal of research as you are well aware. There is a 5 to 8 percent decline in the population. This concerns many of us in the scientific community.

There was a fairly good management scheme going on at one time, but it doesn't seem to be working. We are still seeing this decline. There are a lot of questions. We get into the ghost fishing issue—lost and discarded fishing gear—and the possible effect that this may be having on mortality.

I think that the recommendations that the Commission has made to establish a program where we ask very some serious questions are valid. The National Marine Fishery Service has been asked to establish a good, viable research program to look at all of the aspects of the problem, not only the scientific impact but also the social impact that it has on the people of the Pribilof Islands.

The CHAIRMAN. Doesn't the relatively short decline of the size of the stocks during the last few years argue for at least temperance or caution, or perhaps even eliminating the hunt?

Dr. EVANS. I think that it certainly goes a long way toward suggesting temperance. In my reference to stepping back and looking at the facts, it would be nice to actually have a very strong temperance—reduction or cessation of take—in the process while we are conducting the research to really determine what this is.

This problem was brought home to me, I think, rather recently. I have just returned from Baja, Calif., and I became very concerned because I looked at many injured California sea lions. These are, of course, not fur seals, but there are Guadalupe fur seals in Baja, Calif.—I was amazed just 2 weeks ago, at the number of injured seals that I found on the beaches. In fact, I found few beaches, Mr. Chairman, that did not have animals that showed signs of injury from nets and other debris.

So I think that the 5 to 8 percent decline in fur seals could very well be covered by this. I think that we really don't completely understand the total impact of lost nets and debris in the ocean.

Yes, there certainly should be temperance, but I would like to base it on the maximum amount of information and knowledge that we could get.

The CHAIRMAN. The longer, Doctor, I have been in politics, the more I discover the axium, "We make more mistakes in haste than we lose opportunities in delay," is correct. It doesn't really matter whether you are talking about war or conservation.

I cannot urge you too strongly, although you are more of a scientist than I am, where you have a choice to tilt on the side of caution. If we, by chance, underestimate the size of the stocks, and indeed could have gone on and we didn't have it, I would sooner opt on the side of no than yes, than be wrong a year or two later.

Dr. EVANS. Mr. Chairman, I agree with that 100 percent. As a scientist, and especially a laboratory scientist, I think you will find that one of the things that we have learned in our training is that

we try to err on the side of caution as much as we possibly can in making our decisions.

I think this is extremely vital when we are dealing with animal populations in the wild. I think that some of the mistakes that we have made in the past is that we too hastily jumped into making decisions in terms of counts. I think that we need to continue to work very, very hard to hone our tools. We have new technologies that are becoming available to us continually, such as satellite photography. We must use the availability of every tool that we possibly can. I think we are obligated to seek out this new scientific technology and apply it in every way that we possibly can to address these problems, to make sure that we do the maximum we possibly can to sustain the populations of marine mammals at the optimum levels.

The CHAIRMAN. Doctor, as you are also aware, the Marine Mammal Protection Act is up for reauthorization this year. One of the most controversial issues we face, as usual, continually, is the tuna-porpoise question.

What are your thoughts on the progress which has been made in this area, and do you feel that any additional amendments to the act are necessary?

Dr. EVANS. Having been very closely associated with the fishing industry in San Diego and in other places for a number of years, I feel that we have made a great deal of progress. I think there is a lot more progress that can be made. I am quite interested in continuation of an observer program. I am very much in favor of trying to really improve our relationships on an international basis.

I think that our particular fishing fleet has done an excellent job in approaching it. There still are directions that we could go. There are still new changes that could be made. I think that we need to improve our monitoring of what is going on in the international fleet.

I have not looked at the issues pending. I have not had an opportunity to discuss, both with people from industry and from the scientific community, in terms of whether or not at the present there are needed modifications. This is something that I would spend some time and look at very closely. I would rather not make a statement in haste on that, because I think it is something that deserves discussing with all of the parties involved.

I think that it is a very important issue. I think the fleet is very, very much interested in this. I have one concern which I think is one that somebody should be working on and addressing, and that is that many of the great steps forward in terms of communicating with the scientific community, communicating with the Federal Government, and with the conservation community, came with the real leaders of the tuna community in San Diego.

Many of these gentlemen have now moved their operations to the western Pacific. We have lost a lot of talent. We have lost a lot of people who have been the driving force. I think we need to make sure that we keep enlisting the talent of many of the people involved in the dedicated vessel program. Some of these other gentlemen are no longer fishing in the eastern tropical Pacific and are not a part of this problem. It is a problem of their industry.

We need to talk with them. I have personally talked with many of them. I have told them that I have some concerns and that with things that are coming up, we need to have their input. I think that that is something that we can work toward, making sure that we do not lose that expertise that helped us make the progress that we have made so far.

The CHAIRMAN. Doctor, sure as we are sitting here, I can assure you that there will be strong efforts made to weaken the act. I can see it coming, and I am going to resist them as strongly as I can. I hope that when we get into that situation, and push comes to shove, that I can count on your judgment and I hope your support.

Let us move to the whales. As you are well aware again, the IWC has voted to impose a moratorium on commercial whaling at the end of the 1986 season. We are coming again to the fish allocation situation with the Japanese and their April quotas, and their July quotas, and they have as yet given no indication that they are going to observe the IWC moratorium when we get to the end of the 1985 season.

What are your thoughts on the subject, and what actions do think should be taken as a U.S. Government policymaker in this area?

Dr. EVANS. First of all, I am deeply concerned, as you are, Mr. Chairman, in terms of the Japanese, the Soviets, and the Norwegians. In participating with the International Whaling Commission, I plan to put forth the maximum amount of energy I can in dealing directly with the Soviets and the Japanese.

As a matter of fact, I will be meeting on another matter, which is the U.S.-U.S.S.R. program this weekend. For the next 6 weeks, I will be spending some time working on research problems on seals with Lev Popov who is a marine mammal person for the Ministery of Fisheries for the Soviet Union. I can assure you that we will discuss this in detail.

We have established over the past 8 or 9 years, I think, a very good discourse with the Soviet and Japanese scientific communities. One of the things that I plan to do is to appeal as a scientist to the scientific community in the Soviet Union who are associated with this, to deal with the people on their political side of the house in terms of the absolute necessity for them to join with us in support, so that, over the 5 years of the moratorium, we can get the kind of data and the kind of information, necessary to get a handle on this particular problem.

Whether or not I will be successful in that, I don't know, but I think that I do have an opportunity and I have worked closely over the years, not only with people from the Japanese scientific community, the Norwegian scientific community, but also the Soviet scientific community.

In working very closely with the people in NOAA, especially with our Commissioner to the IWC, Dr. John Byrne, that we will continue to insist that these objections be withdrawn.

The CHAIRMAN. You do support the moratorium.

Dr. EVANS. Yes, sir.

The CHAIRMAN. Very good.

What thoughts do you have about the discarded fishing nets and the problems that they are causing with the fishing stocks?

Dr. EVANS. I think that it could very well be one of the major problem, if not the most major problem that we have before us in the next few years in the marine mammal community. I have a personal interest in it.

As a biologist, I go down in deep submersibles from time to time. I have only made three trips. One of the three, I almost didn't come back from because I was almost entrapped in a lost net in Coronado Canyon along with two colleagues in the North American Rockwell deep submersible. It took us quite a bit of time to cut our way out of it, and we weren't too sure whether we would get out of it. I had some rather impolite things to say about discarded nets following that incident. That is an emotional trauma that I carry with me very deeply.

As I mentioned, when I was in Mexico, I have seen signs of this in Mexican waters. I have seen signs of it in the Sea of Cortez. I think the problem may be much larger. I think that we need an aggressive program, and the Marine Mammal Commission has already started an extremely aggressive program to address this.

They have talked with the National Marine and Fishery Service, and with the other agencies involved to really start getting the experts in the field to see what we can do to really come up with a solution. This is on insidious problem because it is unseen.

We see an increasing number of injured animals every year. There is a lot of heavy gill netting going on off of the coast of California, in Oregon, and in Washington, a great deal of it in the North Pacific, the North Atlantic, and a great deal of it beginning to develop in other areas.

I think we are looking at the tip of an iceberg. I would use any influence that I possibly could, working with the other Commissioners, the Committee of Scientific Advisors, and with people within the National Marine Fishery Service, and the Fish and Wildlife Service, to take as aggressive a stance as we possibly can in solving this problem.

The CHAIRMAN. What is your professional assessment on Sea World's ORCA application?

Dr. EVANS. I must say that I don't have a great deal of insight on it for a couple of reasons. The majority of the work is being done by one of my colleagues, Steven Leatherwood. I think the program that they are starting out with now, which I think is very good and valid, is to assess the numbers of animals in Alaska.

I think the stipulations that were put in the National Marine Fishery Service permit that went to Sea World were valid I think they were sound scientifically. I think that they should be followed. Unfortunately, at the time when I would have been able to get the maximum amount of information as to what was happening I was preoccupied with a medical problem. During all of the initial phases of it, I was in and out of a hospital, so I missed out.

For a lot of purposes, I have kept myself somewhat aloof from that. When the nomination was made, and it was offered and I accepted it, I withdrew myself, from dealing with the project because I realized that it would represent, certainly by appearance because we were involved in the research aspect of it, an area of conflict of interest. So I started disassociating myself at that time.

I think that the research phase of it, which is the only one that I am really familiar with, is progressing on line. I think that it is a good research program. The people who are working on it now are the same people that really established the program in Puget Sound area, which was an excellent program.

The recommendations that were made by the International Whaling Commission were that we should study color patterns, develop photographic atlases to try to document specific groups of animals, determine numbers, get counts, and look at movement patterns. These are all things that I think are ongoing now. I think that it is extremely valuable to have this kind of information.

The CHAIRMAN. You don't happen to know why Sea World submitted this application months after they began the construction of the $20 million ORCA facility, do you?

Dr. EVANS. No; I really don't. In fact, I became aware of the construction of the ORCA facility in Florida, I think, at about the same time that everybody else here did.

The CHAIRMAN. What is your assessment of their captive breeding proposal?

Dr. EVANS. I think that the proposal they have has been well thought out. I think that it is in line with the trends that we are trying to establish in zoological parks and oceanariums and aquariums. You may be aware that in recent inventories there is an increasing number of the animals, which are maintained in captivity for display and for educational purposes that have been born in captivity.

I think that this is the direction to go. To become independent, I think that most of the zoological parks and oceanariums want to be independent. I don't think they want to impact on the environment. I think in some cases, in some species, it is important to have germ-plasm resources, genetic resources that are available because of certain kinds of environmental problems that we have no control over. This is a pool and resource, in a sense.

I am still in the process of evaluating this for certain specialized animals—pandas, killer whales, and some of the great apes. I think that this is going to be an ongoing thing. I think that every scientist that is involved in this has to continually ask himself and to ask basically the same question that you just asked to keep looking and refining that answer. I don't think that we have a pat answer to that right now, and I think that it is important for them to have one.

I think if they are going to continue with such programs, I would urge any organization which is going to maintain marine mammals especially, to learn more about the reproductive cycle. The more we can learn about reproductive rates, the needs of the young, and the growth rates (all of those are answers that we can get) we can approach more closely a successful program. If we can actually observe a birth and observe a growth over a period of time, we can come up with requirements.

I think the fact (although it is an experiment that I was not originally in favor of) that many years ago, a young grey whale was captured was valuable. I was relatively vocal against the project. I didn't think that it was a good experiment at the time. I

have since then written a book about it. At the time I was very outspoken about it, but it was very successful.

In the process of being successful, we learned a great deal about growth rate in grey whales. We learned a great deal about young grey whales, where they live, what their habits are. It is a piece of information that has now been used, and can continue to be used, in making management decisions. It was a good piece of science.

The same way with the successful births of tursiops and the successful births that we have had in captivity of animals that are really difficult to deal with. As great scholars have said time and time again, if you are really going to select an animal to study and observe, to look at one that spends over 95 to 96 percent of its time under water is not really optimum. At least, the pinnipeds come out of the water once in a while, and we can observe some of the things.

It is a very difficult area.

The CHAIRMAN. Doctor, thank you. That ends the questions I have. I see Senator Stevens has just arrived, and he may have some questions before we adjourn.

Senator STEVENS. Mr. Chairman, I just dropped in to pay my respects. Having met the nominee in meetings, I was happy to see that his name had been submitted. I don't have any questions.

I am happy to see you here, Doctor.

The CHAIRMAN. He has answered a rather wide array of questions, Ted. We have two extensive letters on the subject of recuse, which are in the record and will be available to you.

Congressman, do you have any further comments?

Mr. LOWERY. No, Mr. Chairman.

We are very proud in San Diego of the contributions we have made to oceanography generally. Hubbs-Sea World Research Institute has been right at the heart of it, right along with Scripps Institution of Oceanography. We are hopeful that you will look favorably upon Dr. William Evans.

Thank you.

[The biographical sketch and material submitted for the record follow:]

BIOGRAPHICAL SKETCH OF WILLIAM EUGENE EVANS

Residence.—9411 Mount Israel Road, Escondido, Calif. 92025.

Work.—1700 South Shores Road, San Diego, Calif. 92109.

Born.—October 11, 1930; Elkhart, Ind.

Married.—Phyllis Jean Roberts.

Two sons.—Jonathan Arthur; born May 13, 1955; Fort Knox, Ky. and Timothy Justice; born July 13, 1956; Fort Knox, Ky.

Education: University of California at Los Angeles, Ph.D.—December 1975; Ohio State University, M.A.—December 1954; and Bowling Green State University, B.S. in Education—December 1953.

Employment Record:

1953-54.—Research assistant, experimental audiology at the Columbus State School for Ohio State University Research Foundation.

1954-56.—Lt., U.S. Army, Armored Field Artillery, Communications Officers, Commanding Officer Headquarters Battery 276th Armored Field Artillery Bn., Fort Knox, Ky.

1956-59.—Laboratory research analyst, bioacoustics, studied the biological effects of aircraft noise, Douglas Aircraft, Santa Monica, Calif.

1960-64.—Senior scientist, project leader bioacoustic; Lockheed Aircraft Corp., Burbank, Calif.

1964–66.—Research zoologist, marine mammal research, part-time NIH grant with Prof. K.S. Norris (as graduate student). Part-time, Naval Missile Center Marine Mammal Laboratory, Point Mugu, Calif.

1966–72.—Research scientist promoted to senior scientist and associate head, Marine Bio-Medical Division, marine mammal research, Naval Undersea Center, Point Mugu, Calif. and San Diego, Calif.

1972–74.—Advance study fellowship on academic sabbatical, visiting scientist, National Marine Fisheries Service, Southwest Fisheries Center, La Jolla, Calif.

1974–76.—Head of the bio-analysis group, Biosystems Division. Basic research on marine mammals. Naval Undersea Center, San Diego Calif.

1977–Present.—Executive director and senior scientist, Hubbs-Sea World Research Institute, San Diego, Calif.

Government experience.—In addition to 12 years of civil service I served as a member of:

Steering Committee, U.S. and U.S.S.R. Joint Marine Mammal Program; Section V., Project 6, U.S.-U.S.S.R. Environmental Protection Agreement.

Pacific Regional Technical Working Group Committee, for U.S. Department of Interior, Minerals Management Service, Outer Continental Shelf program.

U.S. Delegation to International Whaling Commission Meeting, July 1983, Brighton, U.K.

Memberships.—Fellow, American Association of Zoological Parks and Aquariums; member, the Zoological Society of San Diego; member, the Society for Marine Mammalogy; member, American Society of Zoologists; Alpha Tau Omega, social fraternity; Scholia Fraternity, San Diego, Town and Gown Society; Theta Alph Phi, Theater Arts Honorary; Sigma Alpha Eta, Speech Honorary; and Sigma Xi, International Science and Engineering Honor Society.

Political affiliations.—Registered Republican. I have not actively participated in political activities. My wife worked on the election committee for Congressman Ron Packard in his 1983 campaign.

Honors and awards.—Man of the Year, 1982, Portugese Historical Society of San Diego, Calf.; fellow, Zoological Society of San Diego; outstanding performance, and sustained superior performance awards, Naval Undersea Center, 1974–76; director, Porpoise Rescue Foundation; adjunct lecturer, Scripps Institution of Oceanography, University of California San Diego; adjunct professor, San Diego State University; and recipient of Silver Medal, with Prof. Alexey Yablokov, for contributions to the Protection of Nature, All Union Science Exposition, Moscow, 1982.

[The following information was subsequently received for the record:]

QUESTIONS OF SENATOR HOLLINGS AND THE ANSWERS THERETO

Question. The Marine Mammal Commission has earned an excellent reputation for credibility and integrity in discharging its statutory duties under the Marine Mammal Protection Act. Much of this reputation stems from the faithful and thorough consultation between the Commission and its Committee of Scientific Advisors. How do you view the proper relationship between the Commission and the Committee of Scientific Advisors? Do you expect the longstanding consultative process to work differently under your chairmanship?

Answer. The Committee of Scientific Advisors is key to the operation of the Marine Mammal Commission. In order to fulfill its function under Title II of the Marine Mammal Protection Act, The Marine Mammal Commission must have access to the most accurate and credible scientific data available. This is accomplished by the existence of an active and efficient Committee of Scientific Advisors. I do not anticipate any changes in the longstanding consultative process between the Commission and the Committee of Scientific Advisors under my chairmanship. If any thing, I hope to strengthen the process.

Question. Another major factor in the Commission's reputation is the professional distinction of its senior staff. The executive director, John Twiss, and other senior staff people have proven to be a constructive force in resolving difficult issues which have often involved intense differences of opinion among affected interests. It is assumed that you and your fellow commissioners have no plans to make any changes to this fine staff. Is this assumption correct and if not, what are your intentions with respect to the senior staff?

Answer. The current staff of the Marine Mammal Commission has functioned effectively and efficiently for several years. I am a great believer in the importance of teamwork as a management concept. I have no plans for changes in staff. I have not

consulted with my fellow commissioners and cannot speak for them. As in the past, all personnel matters will most likely be handled by all the commissioners in consultation with the Executive Director of the Commission.

Question. In light of your March 19 recusal letter, do you envision any situations where you will participate in decisions regarding applications for marine mammal research permits? If so, please provide examples of situations not affected by your recusal.

Answer. My participation in decisions regarding applications for marine mammal research permits will be handled on a case by case basis. It is my understanding that I have recused myself from those transactions that directly affect Hubbs-Sea World Research Institute or could be interpreted by other organizations as giving H-SARI and unfair advantage. I can envision my participating in requests for research permits by a foreign government, e.g., USSR, Japan in conjunction with fishing activities. Final determination of this will be made by the Commission Ethics Officer, the Commission Legal Counsel and the Office of Government Ethics.

Question. Likewise, do you envision instances where you will be able to act on applications for permits to take marine mammals for public display? Please provide illustrations of such instances.

Answer. It is my understanding that I may be able to advise on requests for permits to take marine mammals for public display in those cases where it does not appear to benefit the Institute or Sea World directly or indirectly. This for example might include foreign institutions. As mentioned before in the Answer to Question 3, the Commission Ethics Officer, Legal Counsel and the Office of Government Ethics will be consulted where any questions may arise. Their joint advice will be followed.

Question. On page 2 of your March 19 letter, item 3c refers to "Contributions." Should this read "Contributors" instead, as in Item 5c?

Answer. Items 3c and 5c should read "Contributors . . .".

Question. In items 3b, 4b, and 5b of the March 19 letter, you refer to matters "of particular interest to Hubbs-Sea World Research Institute or Sea World, Inc., including" nine stated areas of concern. Is the phrase "of particular interest" intended to be a shorthand reference to the statement in the first paragraph of your letter which refers to "any particular matter where the outcome may have a direct and predictable effect" on Hubbs-Sea World and Sea World, Inc.? If not, please explain what you mean by "particular interest."

Answer. In items 3b, 4b, and 5b of my March 19 letter the phrase "of particular interest" is intended to be a shorthand reference to the statement in the first paragraph of my letter which refers to "any particular matters where the outcome may have a direct and predictable effect on Hubbs-Sea World Research Institute and Sea World, Inc."

Question. Do the nine recusal categories stated in items 3b, 4b, and 5b of your March 19 letter represent an all-inclusive list for the present? Why were these particular categories singled out?

Answer. The nine items of recusal in my letter of 19 March represent areas of research in which Hubbs-Sea World Research Institute has been active in the past several years. These items were selected from the list of grants and contracts attached as an enclosure to my letter of 19 March. In the opinion of Mr. John Twiss these represented areas that he, as the Commission Ethics Officer, thought might be perceived by some as areas of potential conflict.

Question. Your recusals with respect to U.S. tuna-porpoise issues appear to be based on the work that your Institute has done in association with the U.S. tuna industry. Do you expect to avoid involvement in Congressional testimony and other dealings with House and Senate members and staff on tuna-porpoise issues arising in the context of this year's reauthorization of the Marine Mammal Protection Act?

Answer. In the five general areas of recusal I did not rescuse myself from giving advice to House and Senate members and staff on tuna-porpoise and other issues or giving Congressional testimony when it is requested. Whenever such testimony or discussion or advice are requested I will be ready to participate. However, the specifics of each case will be discussed with appropriate legal counsel from the Commission and the legislature.

Question. Your recusal letter applies to Antarctic living resources. Does your letter prevent you from involvement in the development of a marine minerals regime for Antarctica or the implementation of the convention covering Antarctic living marine resources? Does item 2 of your letter affect your ability to participate in development of the Antarctic marine mineral regime?

Answer. It is my understanding that item 2 of my 19 March letter refers specifically to U.S. Outer Continental Shelf development and in particular as it applies to those

oil company foundations that have given donations to the Hubbs-Sea World Research Institute. Again, this is an area of recusal recommended by the Commission ethics officer, Mr. John Twiss. I do not feel that item 2 affects participation in Antarctic marine mineral problems as they may relate to marine mammals. I will seek clarification of this from the Office of Government Ethics, and the Commission Ethics Officer, especially questions of the convention covering Antarctic living resources.

U.S. SENATE,
Washington, D.C., March 21, 1984.

Hon. BOB PACKWOOD,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing in support of the nomination of Dr. William Evans as Chairman of the Marine Mammal Commission.

Dr. Evans is a highly distinguished scholar in the field of marine science who lives and works near my home city of San Diego. I have had the distinct pleasure of meeting Dr. Evans on several occasions and find him to be an individual who is dedicated to his field of study. I am convinced that his expertise, experience and genuine devotion to the advancement of marine sciences would prove to be an invaluable asset to the Marine Mammal Commission.

I would respectfully urge the Committee to favorably act on Dr. Evans' nomination and move for expeditious action on the floor.

Sincerely,

PETE WILSON.

STATEMENT OF MILTON M. KAUFMANN, PRESIDENT, MONITOR INTERNATIONAL

The purpose of this statement is to recommend that the U.S. Senate confirm the appointment of Dr. William E. Evans as Chairman of the Marine Mammal Commission. I request that it be made a part of the record of this Hearing.

I have known Dr. Evans since 1974 and hold him in the highest regard as a conservationist, scientist and administrator.

May I provide the Committee with that aspect of my professional background which is relevant to this recommendation. In 1971 and 1972 I worked as a wildlife conservationist with Congressional Committees, assisting in the shaping of the Marine Mammal Protection Act. Consequently, I am intimately familiar with the legislative history of the MMPA relating to the Marine Mammal Commission section of the Act. From January 1973 through 1977, I helped organize and served as President and Chief Executive Officer of the Monitor (USA) wildlife Consortium. The Consortium's objective is to continuously monitor how the Executive Branch administers and enforces the MMPA and Endangered Species Act. My position required very frequent liaison with the NMFS, FWS and the Marine Mammal Commission. That liaison has continued to the present time.

This unique background has given me the opportunity to closely observe and evaluate the performance of the several individuals who have held the post of Chairman of the MMC and to reflect on the requirements of the position. It is my considered judgment that Dr. Evans will ably discharge his Commission responsibilities. He fully meets the criteria of the position, both as stated in the Act and as developed empirically during the 12-year experience of the Commission.

His breadth and depth of experience will provide a solid foundation for the making of MMC scientific recommendations to other agencies of the government with responsibilities under the MMPA:

(1) He served three years in the USA Army Field Artillery.

(2) He has had 30 years of science and research management experience as (a) a U.S. Navy ONR civilian scientist, (b) in the aircraft industry, and (c) as Executive Director, Hubbs-Sea World Research Institute. A significant number of scientific projects for which he has been responsible have related to marine mammals.

He played an active role in the development by the American Association of Zoological Parks and Aquariums of standards for care of captive marine mammals and the establishment of Conservation as a primary objective of AAZPA.

In closing, we note with approval that Dr. Evans has gone on record as rescuing himself on a number of general and specific areas relating to MMC actions, which include MMC actions devolving from requests from Hubbs-Sea World Research In-

stitute, Porpoise Rescue Foundation (U.S. Tuna industry), American Tuna Boat Association (and members) and AAZPA and its members.

Thank you for considering our views on Dr. Evans' confirmation.

HUBBS-SEA WORLD RESEARCH INSTITUTE,
San Diego, Calif., January 19, 1984.

Mr. JOHN TWISS,
Marine Mammal Commission,
Washington, D.C.

DEAR MR. TWISS: Because my service as Chairman of the Marine Mammal Commission will be on a part-time basis, it is my intention to continue, after my confirmation, to serve in my present capacity as Executive Director of Hubbs-Sea World Research Institute. Hubbs-Sea World Research Institute is a non-profit, public benefit corporation, which was established in 1963 (then as the Mission Bay Research Foundation) to conduct studies on marine mammals and on the effect of man's activities upon them. As Executive Director I also serve as President and Chief Executive Officer of the corporation.

Because of my continuing relationship with Hubbs-Sea World Research Institute, as an officer and employee, I intend to recuse myself from acting, advising, or recommending with respect to any "particular matter' (as defined in the federal conflict of interest laws and applicable regulations) where the outcome may have a direct and predictable effect on Hubbs-Sea World Research Institute, even though all other similarly situated marine mammal research organizations would be affected in a like manner.

Although Hubbs-Sea World Research Institute is frequently identified with Sea World, Inc. (a for-profit organization engaged in, inter alia, the display of captive marine mammals), Hubbs-Sea World Research Institute is, in fact, a totally independent, non-profit foundation.

Because Hubbs-Sea World Research Institute and Sea World, Inc. are separate entities, I am advised I would not, by virtue of my continuing employment with Hubbs-Sea World Research Institute be precluded, under 18 U.S.C. section 208, from taking official action in matters in which Sea World, Inc. has a financial interest. However, to avoid even the possible appearance of a conflict of interest which may result from the common misconception that Hubbs-Sea World Research Institute and Sea World, Inc. are legally or operationally affiliated, I will recuse myself from participating in any particular matter coming before the Commission in which Sea World, Inc., has a financial interest, where the outcome may have a direct and predictable effect upon Sea World, Inc.

Please establish suitable procedures so that no such matter will come to my attention and to assure that any necessary authorization to act with respect to such matters is properly delegated to other members of the Commission, as appropriate.

I am familiar with and will abide by the provisions of 18 U.S.C. section 208 and the Marine Mammal Commission Standards of Conduct.

Sincerely,

WILLIAM E. EVANS.

HUBBS-SEA WORLD RESEARCH INSTITUTE,
San Diego, Calif., March 19, 1984.

JOHN R. TWISS, Jr.,
Executive Director, Marine Mammal Commission, Washington, D.C.

DEAR MR. TWISS: In connection with my nomination to the position of Chairman of the Marine Mammal Commission, I have agreed via my letter of 19 January 1984 to recuse myself from acting, advising, recommending, or other participation with respect to any particular matter where the outcome may have a direct and predictable effect on Hubbs-Sea World Research Institute or Sea World, Inc. (even though all other entities similarly situated could be affected in a like manner). To effectuate this commitment, I hereby further agree in particular as follows:

1. to recuse myself from participation in matters involving standards, guidelines, and regulations governing the maintenance of marine mammals in captivity and related matters;

2. to recuse myself from matters involving Outer Continental Shelf oil and gas exploration, development, and related research matters;

3. to recuse myself from participation in decisions on applications to the Commission for research funding submitted by:

a. Hubbs-Sea World Research Institute or Sea World, Inc.;

b. Any individual or entity wishing to do research in subject matter areas which are of particular interest to Hubbs-Sea World Research Institute or Sea World, Inc., including: i. U.S. tuna-porpoise, ii. bowhead whale, iii. Antarctic living resources, iv. sea otter, v. humpback whales in Glacier Bay, vi. killer whales, vii. marine mammal/fishery interactions along the coast of California, viii. maintenance and propagation of marine mammals in captivity, and ix. beluga whales.

c. Contributions to or sources of funding for Hubbs-Sea World Research Institute or Sea World, Inc.;

4. to recuse myself from participation in reviews of the research programs and plans of other agencies and those of the Commission in subject matter areas which are of particular interest to Hubbs-Sea World Research Institute or Sea World, Inc., including: i U.S. tuna-porpoise, ii. bowhead whale, iii. Antarctic living resources, iv. sea otter, v. humpback whales in Glacier Bay, vi. killer whales, vii. marine mammal fishery interactions along the coast of California, viii. maintenance and propagation of marine mammals in captivity, ix. beluga whales; and

5. to recuse myself from Commission deliberations on applications for permits to take marine mammals submitted by:

a. Hubbs-Sea World Research Institute or Sea World, Inc.;

b. Any individual or entity seeking to do research in subject matter areas which are of particular interest to Hubbs-Sea World Research Institute or Sea World, Inc., including: i. U.S. tuna-porpoise, ii. bowhead whale, iii. Antarctic living resources, iv. sea otter, v. humpback whales in Glacier Bay, vi. killer whales, vii. marine mammal/fishery interactions along the coast of California, viii. maintenance and propagation of marine mammals in captivity, and ix. beluga whales.

c. Contributors to or sources of funding for Hubbs-Sea World Research Institute or Sea World, Inc.

To provide the Commission and the Ethics in Government Office additional background information which I consider essential, I enclose a list of all major sources of contributions to Hubbs-Sea World Research Institute over the last three years as well as a list of grants and contracts which have been concluded in the last three years, those that are not ongoing and those that are under consideration for funding. With this list, I have shown the sources of support as well.[1]

In my letter to you of January 19, 1984, I requested that you establish suitable procedures so that no matter would come to my attention as to which recusal was required. That request should be read to apply to the specific commitments set forth above. After suitable procedures have been established, I am required to provide written notice thereof to the Office of Government Ethics pursuant to, and within the time limits imposed by, Section 211 of the Ethics in Government Act, as amended.

Sincerely,

WILLIAM E. EVANS.

The CHAIRMAN. Gentlemen, thank you. The hearing is adjourned.

[Whereupon, at 9:42 a.m., the committee adjourned.]

[1] The lists referred to have been retained in the committee files.